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will be in violation of the Commission's rules and will be subject to appropriate penalties, as well as immediately subject to the non-public safety time periods.

[61 FR 29695, June 12, 1996, as amended at 62 FR 12758, Mar. 18, 1997; 62 FR 18936, Apr. 17, 1997; 71 FR 29842, May 24, 2006]

§ 101.79 Sunset provisions for licensees in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands.

(a) FMS licensees will maintain primary status in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands unless and until an ET licensee (including MSS/ATC operator) requires use of the spectrum. ET licensees are not required to pay relocation costs after the relocation rules sunset. Once the relocation rules sunset, an ET licensee may require the incumbent to cease operations, provided that the ET licensee intends to turn on a system within interference range of the incumbent, as determined by TIA TSB 10-F (for terrestrial-to-terrestrial situations) or TIA TSB 86 (for MSS satellite-to-terrestrial situations) or any standard successor. ET licensee notification to the affected FMS licensee must be in writing and must provide the incumbent with no less than six months to vacate the spectrum. After the six-month notice period has expired, the FMS licensee must turn its license back into the Commission, unless the parties have entered into an agreement which allows the FMS licensee to continue to operate on a mutually agreed upon basis. The date that the relocation rules sunset is determined as follows:

(1) For the 2110–2150 MHz and 2160–2175 MHz and 2175–2180 MHz bands, ten years after the first ET license is issued in the respective band; and

(2) For the 2180–2200 MHz band, December 8, 2013 (*i.e.*, ten years after the mandatory negotiation period begins for MSS/ATC operators in the service).

(b) If the parties cannot agree on a schedule or an alternative arrangement, requests for extension will be accepted and reviewed on a case-by-case basis. The Commission will grant such extensions only if the incumbent can demonstrate that:

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(1) It cannot relocate within the six-month period (*e.g.*, because no alternative spectrum or other reasonable option is available), and;

(2) The public interest would be harmed if the incumbent is forced to terminate operations (*e.g.*, if public safety communications services would be disrupted).

[61 FR 29695, June 12, 1996, as amended at 62 FR 12758, Mar. 18, 1997; 68 FR 68254, Dec. 8, 2003; 71 FR 29842, May 24, 2006]

§ 101.81 Future licensing in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands.

After April 25, 1996, all major modifications and extensions to existing FMS systems in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands will be authorized on a secondary basis to ET systems. All other modifications will render the modified FMS license secondary to ET operations, unless the incumbent affirmatively justifies primary status and the incumbent FMS licensee establishes that the modification would not add to the relocation costs of ET licensees. Incumbent FMS licensees will maintain primary status for the following technical changes:

- (a) Decreases in power;
- (b) Minor changes (increases or decreases) in antenna height;
- (c) Minor location changes (up to two seconds);
- (d) Any data correction which does not involve a change in the location of an existing facility;
- (e) Reductions in authorized bandwidth;
- (f) Minor changes (increases or decreases) in structure height;
- (g) Changes (increases or decreases) in ground elevation that do not affect centerline height;
- (h) Minor equipment changes.

[61 FR 29695, June 12, 1996, as amended at 62 FR 12759, Mar. 18, 1997; 65 FR 38327, June 20, 2000]

§ 101.82 Reimbursement and relocation expenses in the 2110–2150 MHz and 2160–2200 MHz bands.

(a) Reimbursement and relocation expenses for the 2110–2130 MHz and 2160–2180 MHz bands are addressed in §§ 27.1160–27.1174.

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(b) *Cost-sharing obligations between AWS and MSS (space-to-Earth downlink).* Whenever an ET licensee (AWS or Mobile Satellite Service for space-to-Earth downlink in the 2130–2150 or 2180–2200 MHz bands) relocates an incumbent paired microwave link with one path in the 2130–2150 MHz band and the paired path in the 2180–2200 MHz band, the relocater is entitled to reimbursement of 50 percent of its relocation costs (see paragraph (e)) of this section from any other AWS licensee or MSS space-to-Earth downlink operator which would have been required to relocate the same fixed microwave link as set forth in paragraphs (c) and (d) of this section.

(c) *Cost-sharing obligations for MSS (space-to-Earth downlinks).* For an MSS space-to-Earth downlink, the cost-sharing obligation is based on the interference criteria for relocation, *i.e.*, TIA TSB 86 or any standard successor, relative to the relocated microwave link. Subsequently entering MSS space-to-Earth downlink operators must reimburse AWS or MSS space-to-Earth relocators (see paragraph (e)) of this section before the later entrant may begin operations in these bands, unless the later entrant can demonstrate that it would not have interfered with the microwave link in question.

(d) *Cost-sharing obligations among terrestrial stations.* For terrestrial stations (AWS and MSS Ancillary Terrestrial Component (ATC)), cost-sharing obligations are governed by §§27.1160 through 27.1174 of this chapter; provided, however, that MSS operators (including MSS/ATC operators) are not obligated to reimburse voluntarily relocating FMS incumbents in the 2180–2200 MHz band. (AWS reimbursement and cost-sharing obligations relative to voluntarily relocating FMS incumbents are governed by §27.1166 of this chapter).

(e) The total costs of which 50 percent is to be reimbursed will not exceed \$250,000 per paired fixed microwave link relocated, with an additional \$150,000 permitted if a new or modified tower is required.

[71 FR 29843, May 24, 2006]

POLICIES GOVERNING FIXED SERVICE RELOCATION FROM THE 18.58–19.30 GHz BAND

SOURCE: 65 FR 54173, Sept. 7, 2000, unless otherwise noted.

§ 101.83 Modification of station license.

Permissible changes in equipment operating in the band 18.3–19.3 GHz: Notwithstanding other provisions of this section, stations that remain co-primary under the provisions of §101.147(r) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate.

[68 FR 16968, Apr. 8, 2003]

§ 101.85 Transition of the 18.3–19.3 GHz band from the terrestrial fixed services to the fixed-satellite service (FSS).

Fixed services (FS) frequencies in the 18.3–19.3 GHz bands listed in §§21.901(e), 74.502(c), 74.602(g), and 78.18(a)(4) and §101.147(a) and (r) of this chapter have been allocated for use by the fixed-satellite service (FSS). The rules in this section provide for a transition period during which FSS licensees may relocate existing FS licensees using these frequencies to other frequency bands, media or facilities.

(a) FSS licensees may negotiate with FS licensees authorized to use frequencies in the 18.3–19.30 GHz bands for the purpose of agreeing to terms under which the FS licensees would:

(1) Relocate their operations to other frequency bands, media or facilities; or alternatively

(2) Accept a sharing arrangement with the FSS licensee that may result in an otherwise impermissible level of interference to the FSS operations.

(b)(1) FS operations in the 18.3–18.58 GHz band that remain co-primary under the provisions of §§21.901(e), 74.502(c), 74.602(d), 78.18(a)(4) and 101.147(r) of this chapter will continue to be co-primary with the FSS users of this spectrum until November 19, 2012 or until the relocation of the fixed service operations, whichever occurs sooner.

(2) FS operations in the 18.58–19.3 GHz band that remain co-primary under the